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SENATE BILL 367

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; REQUIRING POLITICAL COMMITTEES THAT MAKE
INDEPENDENT EXPENDITURES TO REGISTER AND FILE REPORTS WITH THE
SECRETARY OF STATE; PROVIDING ADDITIONAL REPORTING REQUIREMENTS
FOR PUBLIC OFFICIALS, CANDIDATES, CAMPAIGN COMMITTEES AND
POLITICAL COMMITTEES; GRANTING SUBPOENA POWER TO THE SECRETARY
OF STATE FOR INVESTIGATIONS PURSUANT TO THE CAMPAIGN REPORTING
ACT; PROHIBITING CERTAIN CASH CONTRIBUTIONS; EXPANDING
DEFINITIONS; PROVIDING ADDITIONAL PENALTIES; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 1997;
AMENDING AND ENACTING SECTIONS OF THE CAMPAIGN REPORTING ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,
Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign Reporting
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1 Act:

2 A. "advertising campaign" means an advertisement or
3 series of advertisements used for a political purpose and
4 disseminated to the public either in print, by radio or
5 television broadcast or by any other electronic means,
6 including telephonic communications, and may include direct or
7 bulk mailings of printed materials;

8 B. "anonymous contribution" means a contribution
9 the contributor of which is unknown to the candidate or [~~his~~]
10 the candidate's agent or the political committee or its agent
11 who accepts the contribution;

12 C. "bank account" means an account in a financial
13 institution located in New Mexico;

14 D. "campaign committee" means two or more persons
15 authorized by a candidate to raise, collect or expend
16 contributions on the candidate's behalf for the purpose of
17 electing [~~him~~] the candidate to office;

18 E. "candidate" means an individual who seeks or
19 considers an office in an election covered by the Campaign
20 Reporting Act, including a public official, who either has
21 filed a declaration of candidacy or nominating petition or:

22 (1) for a non-statewide office, has received
23 contributions or made expenditures of one thousand dollars
24 (\$1,000) or more or authorized another person or campaign
25 committee to receive contributions or make expenditures of one

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1 thousand dollars (\$1,000) or more for the purpose of seeking
2 election to the office; or

3 (2) for a statewide office, has received
4 contributions or made expenditures of two thousand five hundred
5 dollars (\$2,500) or more or authorized another person or
6 campaign committee to receive contributions or make
7 expenditures of two thousand five hundred dollars (\$2,500) or
8 more for the purpose of seeking election to the office or for
9 candidacy exploration purposes in the years prior to the year
10 of the election;

11 F. "contribution" means a gift, subscription, loan,
12 advance or deposit of money or other thing of value, including
13 the estimated value of an in-kind contribution, that is made or
14 received for a political purpose, including payment of a debt
15 incurred in an election campaign, but does not include the
16 value of services provided without compensation or unreimbursed
17 travel or other personal expenses of individuals who volunteer
18 a portion or all of their time on behalf of a candidate or
19 political committee, nor does it include the administrative or
20 solicitation expenses of a political committee that are paid by
21 an organization that sponsors the committee;

22 G. "deliver" or "delivery" means to deliver by
23 certified or registered mail, telecopier, electronic
24 transmission or facsimile or by personal service;

25 H. "election" means any primary, general or

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1 statewide special election in New Mexico and includes county
2 and judicial retention elections but excludes municipal, school
3 board and special district elections;

4 I. "election year" means an even-numbered year in
5 which an election covered by the Campaign Reporting Act is
6 held;

7 J. "expenditure" means a payment, transfer or
8 distribution or obligation or promise to pay, transfer or
9 distribute any money or other thing of value for a political
10 purpose, including payment of a debt incurred in an election
11 campaign or pre-primary convention, but does not include
12 independent expenditures or the administrative or solicitation
13 expenses of a political committee that are paid by an
14 organization that sponsors the committee;

15 K. "independent expenditure" means a payment,
16 transfer or distribution or obligation or promise to pay,
17 transfer or distribute any money or thing of value:

18 (1) for the purpose of expressly advocating
19 the election or defeat of a clearly identified candidate or in
20 support of or opposition to a constitutional amendment or other
21 question submitted to the voters; and

22 (2) without the cooperation, consultation or
23 in concert with or at the request or suggestion of a candidate,
24 a candidate's authorized committee or its agents or a political
25 party or its agents;

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1 ~~[K-]~~ L. "person" means an individual or entity;

2 ~~[L-]~~ M. "political committee" means two or more
3 persons, other than members of a candidate's immediate family
4 or campaign committee or a husband and wife who make a
5 contribution out of a joint account, who are selected,
6 appointed, chosen, associated, organized or operated primarily
7 for a political purpose; and political committee includes:

8 (1) political action committees or similar
9 organizations composed of employees or members of any
10 corporation, labor organization, trade or professional
11 association or any other similar group that raises, collects,
12 expends or contributes money or any other thing of value for a
13 political purpose;

14 (2) a single individual ~~[who by his]~~ whose
15 actions ~~[represents]~~ represent that ~~[he]~~ the individual is a
16 political committee; ~~[and]~~

17 (3) a person or an organization of two or more
18 persons that within one calendar year expends funds in excess
19 of five hundred dollars (\$500) to conduct an advertising
20 campaign for a political purpose; and

21 (4) a person or an organization of two or more
22 persons that makes independent expenditures in this state
23 exceeding five hundred dollars (\$500) in any calendar year;

24 ~~[M-]~~ N. "political purpose" means influencing or
25 attempting to influence an election or pre-primary convention,

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1 including a constitutional amendment or other question
2 submitted to the voters;

3 [N-] Q. "prescribed form" means a form or
4 electronic format prepared and prescribed by the secretary of
5 state;

6 [O-] P. "proper filing officer" means either the
7 secretary of state or the county clerk as provided in
8 Section 1-19-27 NMSA 1978;

9 [P-] Q. "public official" means a person elected to
10 an office in an election covered by the Campaign Reporting Act
11 or a person appointed to an office that is subject to an
12 election covered by that act;

13 [Q-] R. "reporting individual" means every public
14 official, candidate or treasurer of a campaign committee and
15 every treasurer of a political committee; and

16 [R-] S. "statement of exception" or "statement"
17 means the prescribed form subscribed and sworn to by a
18 candidate to indicate that the candidate does not intend to
19 raise or expend the minimum amount required for the filing of a
20 report of expenditures and contributions as provided in Section
21 1-19-33 NMSA 1978."

22 Section 2. Section 1-19-26.1 NMSA 1978 (being Laws 1993,
23 Chapter 46, Section 2, as amended) is amended to read:

24 "1-19-26.1. POLITICAL COMMITTEES--REGISTRATION--
25 DISCLOSURES.--

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1 A. It is unlawful for [~~any~~] a political committee
2 that receives, contributes or expends in excess of five hundred
3 dollars (\$500) in any calendar year to continue to receive or
4 make [~~any~~] a contribution or expenditure for a political
5 purpose unless that political committee appoints and maintains
6 a treasurer and registers with the secretary of state.

7 B. A political committee shall register with the
8 secretary of state within ten days of receiving, contributing
9 or expending in excess of five hundred dollars (\$500) by paying
10 a filing fee of fifty dollars (\$50.00) and filing a statement
11 of organization under oath on a prescribed form showing:

12 (1) the full name of the political committee,
13 which shall fairly and accurately reflect the identity of the
14 committee, including any sponsoring organization, and its
15 address;

16 (2) a statement of the purpose for which the
17 political committee was organized;

18 (3) the name, address and relationship of any
19 connected or associated organization or entity;

20 (4) the names and addresses of the officers of
21 the committee; and

22 (5) an identification of the bank used by the
23 committee for all expenditures or contributions made or
24 received.

25 C. A political committee required to register

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1 pursuant to this section shall file all reports required by the
2 Campaign Reporting Act.

3 ~~[G-]~~ D. Except as provided in Subsection E of this
4 section, the provisions of this section do not apply to a
5 political committee that is located in another state and is
6 registered with the federal election commission if the
7 political committee reports on federal reporting forms filed
8 with the federal election commission all expenditures for and
9 contributions made to reporting individuals in New Mexico and
10 files with the secretary of state, according to the schedule
11 required for the filing of forms with the federal election
12 commission, a copy of either the full report or the cover sheet
13 and the portions of the federal reporting forms that contain
14 the information on expenditures for and contributions made to
15 reporting individuals in New Mexico.

16 E. The provisions of Subsection D of this section
17 do not apply to a political committee that makes independent
18 expenditures in this state exceeding five hundred dollars
19 (\$500) in any calendar year."

20 Section 3. Section 1-19-27 NMSA 1978 (being Laws 1979,
21 Chapter 360, Section 3, as amended) is amended to read:

22 "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER.--

23 A. Except for those candidates who file a statement
24 of exception in an election year pursuant to Section 1-19-33
25 NMSA 1978, all reporting individuals shall [~~annually~~] file with

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1 the proper filing officer [~~a report of expenditures and~~
2 ~~contributions~~] all reports required by the Campaign Reporting
3 Act on a prescribed form. The [~~report~~] reports shall be filed
4 [~~on the second Monday in May~~] pursuant to the provisions of
5 [~~Subsection A of~~] Section 1-19-29 NMSA 1978.

6 B. A reporting individual of a political committee
7 shall file the following reports in accordance with the filing
8 requirements of the Campaign Reporting Act:

9 (1) a report of expenditures and contributions
10 pursuant to Section 1-19-31 NMSA 1978 if the political
11 committee only makes expenditures or receives contributions
12 during the required reporting period;

13 (2) a report of independent expenditures
14 pursuant to Section 1-19-31.1 NMSA 1978 if the political
15 committee only makes independent expenditures during the
16 required reporting period; or

17 (3) a report of expenditures and contributions
18 and a report of independent expenditures pursuant to Sections
19 1-19-31 and 1-19-31.1 NMSA 1978 if the political committee
20 makes expenditures or receives contributions and makes
21 independent expenditures during the required reporting period.

22 [~~B.~~] C. The proper filing officer for filing
23 reports of expenditures and contributions and reports of
24 independent expenditures by a political committee is the
25 secretary of state.

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1 ~~[G-]~~ D. The proper filing officer for filing
2 reports of expenditures and contributions or statements of
3 exception is the secretary of state for all public officials.

4 ~~[D-]~~ E. The secretary of state shall develop or
5 contract for services to develop an electronic reporting system
6 for receiving and for public inspection of reports of
7 expenditures and contributions, reports of independent
8 expenditures and statements of exception to the Campaign
9 Reporting Act. The electronic reporting system shall:

10 (1) enable a person to file reports on line by
11 filling out forms on the secretary of state's web site; and

12 (2) provide for encrypted transmissions."

13 Section 4. Section 1-19-28 NMSA 1978 (being Laws 1979,
14 Chapter 360, Section 4, as amended) is amended to read:

15 "1-19-28. FURNISHING REPORT FORMS--POLITICAL
16 COMMITTEES--CANDIDATES.--

17 A. The secretary of state annually shall furnish to
18 all reporting individuals the prescribed forms for the
19 reporting of expenditures and contributions, the reporting of
20 independent expenditures, supplemental reports and a statement
21 of exception and the specific dates the reports and statement
22 are due.

23 B. In addition to the provisions of Subsection A of
24 this section, at the time of filing a declaration of candidacy
25 or a nominating petition, the proper filing officer shall give

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1 the candidate the prescribed reporting forms and the schedule
2 of specific dates for filing the required reports or a
3 statement of exception. The prescribed forms shall also be
4 made available to all reporting individuals at the office of
5 the secretary of state and in each county at the office of the
6 county clerk."

7 Section 5. Section 1-19-29 NMSA 1978 (being Laws 1993,
8 Chapter 46, Section 5, as amended) is amended to read:

9 "1-19-29. TIME AND PLACE OF FILING REPORTS.--

10 A. Annually, all reporting individuals shall file
11 with the proper filing officer by 5:00 p.m. on the second
12 Monday in May [~~a report of~~] all reports required by the
13 Campaign Reporting Act for all expenditures made, [~~and~~
14 contributions received or independent expenditures made, on or
15 before the first Monday in May and not previously reported. In
16 a nonelection year or in an election year when a public
17 official is not a candidate in that election, all reporting
18 individuals shall also file with the proper filing officer by
19 5:00 p.m. on the second Monday in November all reports required
20 by the Campaign Reporting Act for all expenditures made,
21 contributions received or independent expenditures made on or
22 before the first Monday in November and not previously
23 reported. The report shall be filed annually until the
24 reporting individual's bank account has been closed and the
25 other provisions specified in Subsection E of this section have

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1 been satisfied.

2 B. In an election year, in addition to the May
3 [~~report~~] reports provided for in Subsection A of this section,
4 all reporting individuals, except for persons who file a
5 statement of exception pursuant to Section 1-19-33 NMSA 1978
6 and except for public officials who are not candidates in an
7 election that year, shall file all reports [~~of all expenditures~~
8 ~~made and contributions received~~] required by the Campaign
9 Reporting Act, according to the following schedule:

10 (1) by 5:00 p.m. on the second Monday in
11 October, [~~a report of~~] all reports required by the Campaign
12 Reporting Act for all expenditures made, [~~and~~] contributions
13 received or independent expenditures made on or before the
14 first Monday in October and not previously reported;

15 (2) by 5:00 p.m. on the Thursday before a
16 primary, general or statewide special election, [~~a report of~~]
17 all reports required by the Campaign Reporting Act for all
18 expenditures made, [~~and~~] contributions received or independent
19 expenditures made by 5:00 p.m. on the Tuesday before the
20 election. Any contribution or pledge to contribute that is
21 received after 5:00 p.m. on the Tuesday before the election and
22 that is for five hundred dollars (\$500) or more in a
23 legislative or non-statewide judicial election, or two thousand
24 five hundred dollars (\$2,500) or more in a statewide election,
25 shall be reported to the proper filing officer either in a

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1 supplemental report on a prescribed form within twenty-four
2 hours of receipt or in the report to be filed by 5:00 p.m. on
3 the Thursday before a primary, general or statewide special
4 election, except that any such contribution or pledge to
5 contribute that is received after 5:00 p.m. on the Friday
6 before the election may be reported by 12:00 noon on the Monday
7 before the election; and

8 (3) by 5:00 p.m. on the thirtieth day after a
9 primary, general or statewide special election, [~~a report of~~]
10 all reports required by the Campaign Reporting Act for all
11 expenditures made, [and] contributions received or independent
12 expenditures made on or before the twenty-fifth day after the
13 election and not previously reported.

14 C. Notwithstanding the other provisions of this
15 section, the report due on the thirtieth day after an election
16 need be the only report filed after the annual May report if
17 the candidate is not opposed in the election and if the report
18 includes all expenditures made and contributions received for
19 that election and not previously reported.

20 D. [~~A report of expenditures and contributions~~]
21 Reports required by this section that are filed after a
22 deadline set forth in this section shall not be deemed to have
23 been timely filed.

24 E. Each reporting individual shall file [~~a report~~
25 ~~of expenditures and contributions annually~~] all reports

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1 required by the Campaign Reporting Act pursuant to the filing
2 schedule set forth in this section, regardless of whether any
3 expenditures were made, [~~or~~] contributions were received or
4 independent expenditures were made during the reporting period.

5 Reports shall be required until the reporting individual
6 delivers a report to the proper filing officer stating that:

- 7 (1) there are no outstanding campaign debts;
8 (2) all money has been expended in accordance
9 with the provisions of Section 1-19-29.1 NMSA 1978; and
10 (3) the reporting individual's bank account
11 has been closed.

12 F. Each treasurer of a political committee shall
13 file [~~a report of expenditures and contributions annually~~] all
14 reports required by the Campaign Reporting Act pursuant to the
15 filing schedule set forth in this section until the treasurer
16 files a report that affirms that the committee has dissolved or
17 no longer exists and that its bank account has been closed.

18 G. A reporting individual who is a candidate within
19 the meaning of the Campaign Reporting Act because of the amount
20 of contributions [~~he~~] the candidate receives or expenditures
21 [~~he~~] the candidate makes and who does not ultimately file a
22 declaration of candidacy or a nominating petition with the
23 proper filing officer shall nevertheless file a report, not
24 later than the second Monday in May for a primary election or
25 the second Monday in October for a general election, of all

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1 contributions received and expenditures made on or before the
2 first Monday in May for a primary election or the first Monday
3 in October for a general election and not previously reported.

4 H. Reports required by this section shall be filed
5 electronically by all reporting individuals.

6 I. Reporting individuals may apply to the secretary
7 of state for exemption from electronic filing in case of
8 hardship, which shall be defined by the secretary of state."

9 Section 6. Section 1-19-31 NMSA 1978 (being Laws 1979,
10 Chapter 360, Section 7, as amended) is amended to read:

11 "1-19-31. [~~CONTENTS OF~~] REPORT OF EXPENDITURES AND
12 CONTRIBUTIONS.--

13 A. Each required report of expenditures and
14 contributions shall be [~~typed or printed legibly, or~~] on a
15 computer disc or format approved by the secretary of state, and
16 shall include:

17 (1) the name and address of the person or
18 entity to whom an expenditure was made or from whom a
19 contribution was received, except as provided for anonymous
20 contributions or contributions received from special events as
21 provided in Section 1-19-34 NMSA 1978; provided that for
22 contributors, the name of the entity or the first and last
23 names of any individual shall be the full name of the entity or
24 individual, and initials only shall not constitute a full name
25 unless that is the complete legal name;

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1 (2) [~~the~~] every occupation [~~or type of~~] and
2 the name of the business or businesses of [~~any~~] the person or
3 entity making contributions [~~of two hundred fifty dollars~~
4 ~~(\$250) or more in the aggregate per election~~] or receiving
5 expenditures;

6 (3) every employer of the person or entity
7 making contributions or receiving expenditures;

8 [~~(3)~~] (4) the amount of the expenditure or
9 contribution or value thereof;

10 (5) the cumulative total of all contributions
11 received from the person or entity making a contribution and
12 the cumulative total of all expenditures made to the person or
13 entity receiving an expenditure;

14 [~~(4)~~] (6) the purpose of the expenditure; and

15 [~~(5)~~] (7) the date the expenditure was made or
16 the contribution was received.

17 B. The report of expenditures and contributions
18 shall be subscribed and sworn to by the candidate or the
19 treasurer of the political committee. If the report of
20 expenditures and contributions is filed in an electronically
21 readable format, the report shall be subscribed and sworn to in
22 an independent affidavit signed by the candidate or the
23 treasurer of the political committee and delivered to the
24 secretary of state within forty-eight hours after the report is
25 electronically filed.

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1 C. Each report shall contain an opening and closing
2 cash balance for the bank account maintained by the reporting
3 individual during the reporting period and the name of the
4 financial institution.

5 D. Each report shall specify the amount of each
6 unpaid debt and the identity of the person to whom the debt is
7 owed."

8 Section 7. A new section of the Campaign Reporting Act,
9 Section 1-19-31.1 NMSA 1978, is enacted to read:

10 "1-19-31.1. [NEW MATERIAL] REPORT OF INDEPENDENT
11 EXPENDITURES.--Each required report of independent expenditures
12 shall be on a computer disc or format approved by the secretary
13 of state and shall include:

14 A. the full name and address of the committee
15 making the independent expenditure;

16 B. the name, address, occupation and employer of
17 the reporting individual filing the report on behalf of the
18 committee;

19 C. the full name of the candidate whose election is
20 supported or opposed by the independent expenditure or a
21 description of the constitutional amendment or other question
22 submitted to the voters that is supported or opposed by the
23 independent expenditure;

24 D. the total amount of independent expenditures
25 made in support of or opposition to each candidate,

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1 constitutional amendment or other question submitted to the
2 voters; and

3 E. for each person to whom the political committee
4 made an independent expenditure of at least one hundred dollars
5 (\$100):

6 (1) the person's full name and street address;

7 (2) the date, amount and purpose of the
8 independent expenditure; and

9 (3) the cumulative amount of independent
10 expenditures made to the person."

11 Section 8. Section 1-19-32 NMSA 1978 (being Laws 1979,
12 Chapter 360, Section 8, as amended) is amended to read:

13 "1-19-32. INSPECTION OF PUBLIC RECORDS.--

14 A. Each of the following documents is a public
15 record open to public inspection during regular office hours in
16 the office in which the document was filed or from which the
17 document was issued:

18 (1) a statement of exception;

19 (2) a report of expenditures and
20 contributions;

21 (3) a report of independent expenditures;

22 [~~(3)~~] (4) an advisory opinion issued by the
23 secretary of state;

24 [~~(4)~~] (5) a document specified as a public
25 record in the Campaign Reporting Act; and

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1 [~~5~~] (6) an arbitration decision issued by an
2 arbitration panel and filed with the secretary of state.

3 B. Each public record described in Subsection A of
4 this section shall be retained by the state for five years and
5 may be destroyed five years after the date of filing unless a
6 legal action or prosecution is pending that requires the
7 preservation of the public record.

8 C. The secretary of state shall provide for
9 electronic access to reports of expenditures and contributions
10 and reports of independent expenditures and statements of
11 exception submitted electronically by reporting individuals no
12 more than ten days after the filing deadlines imposed by the
13 Campaign Reporting Act. The secretary of state shall also
14 provide for electronic access to a list of all reporting
15 individuals who fail to file reports by the deadlines imposed
16 by that act. The secretary of state shall maintain the list in
17 accordance with Section 1-19-35 NMSA 1978. Electronic access
18 shall include access via the internet and shall be in an easily
19 searchable format."

20 Section 9. Section 1-19-32.1 NMSA 1978 (being Laws 1981,
21 Chapter 331, Section 9, as amended) is amended to read:

22 "1-19-32.1. REPORTS EXAMINATION--FORWARDING OF
23 REPORTS.--

24 A. The secretary of state shall conduct a thorough
25 examination of at least ten percent of all reports filed during

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1 a year by reporting individuals, selected at random at least
2 forty days after the general election and ten days after the
3 May and November reports are filed in a nonelection year, to
4 determine compliance with the provisions of the Campaign
5 Reporting Act. The examination may include an investigation of
6 any discrepancies, including a cross-reference to reports filed
7 by any other reporting individual. A reporting individual
8 shall be notified in writing if a discrepancy is found in the
9 report filed and shall be permitted to file a written
10 explanation for the discrepancy within ten working days of the
11 date of the notice. The notice, penalty and arbitration
12 provisions set forth in Section 1-19-34.4 NMSA 1978 shall apply
13 to examinations conducted under this section.

14 B. After the date stated in the notice of final
15 action for submission of a written explanation, the secretary
16 of state shall prepare an annual report of any unresolved
17 discrepancies found after examination of the random sample
18 provided for in Subsection A of this section. A copy of this
19 report shall be transmitted to the attorney general for
20 enforcement pursuant to the provisions of Section 1-19-36 NMSA
21 1978. This report is a public record open to public inspection
22 and subject to the retention and destruction provisions set
23 forth in Section 1-19-32 NMSA 1978.

24 C. A county clerk shall deliver to the secretary of
25 state, within forty-eight hours of the county clerk's receipt,

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1 each report of expenditures and contributions or statement of
2 exception filed with the county clerk's office. Within forty-
3 eight hours of receipt of a report of expenditures and
4 contributions or statement of exception filed by a legislative
5 candidate for a multicounty district, the secretary of state
6 shall deliver to each county clerk in the multicounty
7 legislative district a copy of the report or statement filed."

8 Section 10. Section 1-19-34 NMSA 1978 (being Laws 1979,
9 Chapter 360, Section 10, as amended) is amended to read:

10 "1-19-34. CANDIDATES--POLITICAL COMMITTEES--TREASURER--
11 BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--CONTRIBUTIONS FROM
12 SPECIAL EVENTS--CASH CONTRIBUTIONS.--

13 A. It is unlawful for the members of any political
14 committee or any candidate to make any expenditure or solicit
15 or accept any contribution for a political purpose unless:

16 (1) a treasurer has been appointed and is
17 constantly maintained; provided, however, when a duly appointed
18 treasurer is unable for any reason to continue as treasurer,
19 the candidate or political committee shall appoint a successor;
20 and provided further that a candidate may serve as [~~his~~] the
21 candidate's own treasurer;

22 (2) all disbursements of money and receipts of
23 contributions are authorized by and through the candidate or
24 treasurer;

25 (3) a separate bank account has been

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1 established and all receipts of money contributions and all
2 expenditures of money are deposited in and disbursed from the
3 one bank account maintained by the treasurer in the name of the
4 candidate or political committee; provided that nothing in this
5 section shall prohibit investments from the bank account to
6 earn interest as long as the investments and earnings are fully
7 reported. All disbursements except for disbursements made from
8 a petty cash fund of one hundred dollars (\$100) or less shall
9 be by check made payable to the person or entity receiving the
10 disbursement and not to "cash" or "bearer"; and

11 (4) the treasurer upon disbursing or receiving
12 money or other things of value immediately enters and
13 thereafter keeps a proper record preserved by ~~him~~ the
14 treasurer, including a full, true and itemized statement and
15 account of each sum disbursed or received, the date of such
16 disbursal or receipt, to whom disbursed or from whom received
17 and the object or purpose for which it was disbursed or
18 received.

19 B. No anonymous contributions may be accepted in
20 excess of one hundred dollars (\$100). The aggregate amount of
21 anonymous contributions received by a reporting individual
22 during a primary or general election or a statewide special
23 election shall not exceed two thousand dollars (\$2,000) for
24 statewide races and five hundred dollars (\$500) for all other
25 races.

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1 C. Cash contributions received at special events
2 that are unidentifiable as to specific contributor but
3 identifiable as to the special event are not subject to the
4 anonymous contribution limits provided for in this section [~~so~~
5 ~~long as no~~]. A single special event [raises] may not raise,
6 after expenses, more than one thousand dollars (\$1,000) in
7 [~~such~~] cash contributions. For those contributions, due
8 diligence and best efforts shall be made to disclose on a
9 special prescribed form the sponsor, date, place, total amount
10 received, expenses incurred, estimated number of persons in
11 attendance and other identifiable factors that describe the
12 special event. For purposes of this subsection, "special
13 event" includes an event such as a barbecue or similar
14 fundraiser where tickets costing fifteen dollars (\$15.00) or
15 less are sold or an event such as a coffee, tea or similar
16 reception.

17 D. A cash contribution from a single source given
18 in a twenty-four-hour period in excess of one hundred dollars
19 (\$100) may not be accepted.

20 ~~[D.]~~ E. Any contributions received pursuant to this
21 section in excess of the limits established in Subsections B,
22 [~~and~~] C and D of this section shall be donated to the state
23 general fund or an organization to which a federal income tax
24 deduction would be available under Subparagraph (A) of
25 Paragraph (1) of Subsection (b) of Section 170 of the Internal

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1 Revenue Code of 1986, as amended."

2 Section 11. Section 1-19-34.4 NMSA 1978 (being Laws 1993,
3 Chapter 46, Section 15, as amended) is amended to read:

4 "1-19-34.4. EDUCATION AND VOLUNTARY COMPLIANCE--
5 INVESTIGATIONS--BINDING ARBITRATION--REFERRALS FOR
6 ENFORCEMENT.--

7 A. The secretary of state shall advise and seek to
8 educate all persons required to perform duties under the
9 Campaign Reporting Act of those duties. This includes advising
10 all known reporting individuals at least annually of that act's
11 deadlines for submitting required reports and statements of
12 exception. The secretary of state, in consultation with the
13 attorney general, shall issue advisory opinions, when requested
14 in writing to do so, on matters concerning that act. All
15 prescribed forms prepared shall be clear and easy to complete.

16 B. The secretary of state may initiate
17 investigations to determine whether any provision of the
18 Campaign Reporting Act has been violated. The secretary of
19 state has the power to compel the production of books, records
20 and papers pertinent to an investigation conducted pursuant to
21 that act and may seek enforcement of the subpoena in the
22 district court where the custodian of the documents is located.
23 Failure to cooperate with an investigation of the secretary of
24 state is a violation of the Campaign Reporting Act.

25 C. Additionally, any person who believes that a

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1 provision of ~~[that]~~ the Campaign Reporting Act has been
2 violated may file a written complaint with the secretary of
3 state any time prior to ninety days after an election, except
4 that no complaints from the public may be filed within eight
5 days prior to an election. The secretary of state shall adopt
6 procedures for issuing advisory opinions and processing
7 complaints and notifications of violations.

8 ~~[G.]~~ D. The secretary of state shall at all times
9 seek to ensure voluntary compliance with the provisions of the
10 Campaign Reporting Act. If the secretary of state determines
11 that a provision of that act for which a penalty may be imposed
12 has been violated, the secretary of state shall by written
13 notice set forth the violation and the fine imposed and inform
14 the reporting individual that ~~[he]~~ the individual has ten
15 working days from the date of the letter to correct the matter
16 and to provide a written explanation, under penalty of perjury,
17 stating any reason why the violation occurred. If a timely
18 explanation is filed and the secretary of state determines that
19 good cause exists to waive the fine imposed, the secretary of
20 state may by a written notice of final action partially or
21 fully waive any fine imposed for any late, incomplete or false
22 report or statement of exception. A written notice of final
23 action shall be sent by certified mail.

24 ~~[D.]~~ E. Upon receipt of the notice of final action,
25 the person against whom the penalty has been imposed may

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1 protest the secretary of state's determination, including an
2 advisory opinion, by submitting on a prescribed form a written
3 request for binding arbitration to the secretary of state
4 within ten working days of the date of the notice of final
5 action. Any fine imposed shall be due and payable within ten
6 working days of the date of notice of final action. No
7 additional fine shall accrue pending the issuance of the
8 arbitration decision. Fines paid pursuant to a notice of final
9 action that are subsequently reduced or dismissed shall be
10 reimbursed with interest within ten working days after the
11 filing of the arbitration decision with the secretary of state.
12 Interest on the reduced or dismissed portion of the fine shall
13 be the same as the rate of interest earned by the secretary of
14 state's escrow account to be established by the department of
15 finance and administration.

16 ~~[E.]~~ F. An arbitration hearing shall be conducted
17 by a single arbitrator selected within ten days by the person
18 against whom the penalty has been imposed from a list of five
19 arbitrators provided by the secretary of state. Neither the
20 secretary of state nor a person subject to the Campaign
21 Reporting Act, Lobbyist Regulation Act or Financial Disclosure
22 Act may serve as an arbitrator. Arbitrators shall be
23 considered to be independent contractors, not public officers
24 or employees, and shall not be paid per diem and mileage.

25 ~~[F.]~~ G. The arbitrator shall conduct the hearing

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1 within thirty days of the request for arbitration. The
2 arbitrator may impose any penalty the secretary of state is
3 authorized to impose. The arbitrator shall state the reasons
4 for ~~[his]~~ the arbitrator's decision in a written document that
5 shall be a public record. The decision shall be final and
6 binding. The decision shall be issued and filed with the
7 secretary of state within thirty days of the conclusion of the
8 hearing. Unless otherwise provided for in this section or by
9 rule ~~[or regulation]~~ adopted by the secretary of state, the
10 procedures for the arbitration shall be governed by the Uniform
11 Arbitration Act. No arbitrator shall be subject to liability
12 for actions taken pursuant to this section.

13 ~~[G.]~~ H. The secretary of state may refer a matter
14 to the attorney general or a district attorney for a civil
15 injunctive or other appropriate order or for criminal
16 enforcement."

17 Section 12. Section 1-19-35 NMSA 1978 (being Laws 1979,
18 Chapter 360, Section 11, as amended by Laws 1997, Chapter 12,
19 Section 2 and also by Laws 1997, Chapter 112, Section 5) is
20 amended to read:

21 "1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY--
22 FAILURE TO FILE.--

23 A. Except for the report required to be filed and
24 delivered the Thursday prior to the election and any
25 supplemental report, as required in Paragraph (2) of Subsection
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1 B of Section 1-19-29 NMSA 1978, that is due prior to the
2 election, and subject to the provisions of Section 1-19-34.4
3 NMSA 1978, if a statement of exception or a report of
4 expenditures and contributions contains false or incomplete
5 information or is filed after any deadline imposed by the
6 Campaign Reporting Act, the responsible reporting individual or
7 political committee, in addition to any other penalties or
8 remedies prescribed by the Election Code, shall be liable for
9 and shall pay to the secretary of state fifty dollars (\$50.00)
10 per day for each regular working day after the time required by
11 the Campaign Reporting Act for the filing of statements of
12 exception or reports of expenditures and contributions until
13 the complete or true statement or report is filed, up to a
14 maximum of five thousand dollars (\$5,000).

15 B. If any reporting individual files a false,
16 intentionally incomplete or late report of expenditures and
17 contributions due on the Thursday prior to the election, the
18 reporting individual or political committee shall be liable and
19 pay to the secretary of state five hundred dollars (\$500) for
20 the first working day and fifty dollars (\$50.00) for each
21 subsequent working day after the time required for the filing
22 of the report until the true and complete report is filed, up
23 to a maximum of five thousand dollars (\$5,000).

24 C. If a reporting individual fails to file or files
25 a late supplemental report of expenditures and contributions as

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1 required in Paragraph (2) of Subsection B of Section 1-19-29
2 NMSA 1978, the reporting individual or political committee
3 shall be liable for and pay to the secretary of state a penalty
4 equal to the amount of each contribution received or pledged
5 after the Tuesday before the election that was not timely
6 filed.

7 D. If a reporting individual fails to file a report
8 by the deadline imposed by the Campaign Reporting Act, the
9 secretary of state shall publish the individual's name on a
10 list that includes all reporting individuals who failed to file
11 a report by the appropriate deadline. The secretary of state
12 shall designate the individual on the list as delinquent and
13 shall only remove the individual from the list when the
14 individual satisfies the reporting requirements. The list
15 shall be electronically accessible to the public via the
16 internet pursuant to Section 1-19-32 NMSA 1978.

17 ~~[D.]~~ E. All sums collected for the penalty shall be
18 deposited in the state general fund. A report or statement of
19 exception shall be deemed timely filed only if it is received
20 by the proper filing officer by the date and time prescribed by
21 law.

22 ~~[E.]~~ F. Any candidate who fails or refuses to file
23 a report of expenditures and contributions or statement of
24 exception or to pay a penalty imposed by the secretary of state
25 as required by the Campaign Reporting Act shall not, in

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1 addition to any other penalties provided by law:

2 (1) have [~~his~~] the candidate's name printed
3 upon the ballot if the violation occurs before and through the
4 final date for the withdrawal of candidates; or

5 (2) be issued a certificate of nomination or
6 election, if the violation occurs after the final date for
7 withdrawal of candidates or after the election, until the
8 candidate satisfies all reporting requirements of the Campaign
9 Reporting Act and pays all penalties owed.

10 [~~F-~~] G. Any candidate who loses an election and who
11 failed or refused to file a report of expenditures and
12 contributions or a statement of exception or to pay a penalty
13 imposed by the secretary of state as required by the Campaign
14 Reporting Act shall not be, in addition to any other penalties
15 provided by law, permitted to file a declaration of candidacy
16 or nominating petition for any future election until the
17 candidate satisfies all reporting requirements of that act and
18 pays all penalties owed."

19 Section 13. EFFECTIVE DATE.--The effective date of the
20 provisions of this act is January 1, 2007.